

## **Remarks**

### **Status of the Claims**

Claims 1, 3, 5, 7-9, and 23-43 are pending in the application. Each of the pending claims stands rejected. Claim 9 has been amended herein to correct an informality identified by the Examiner. For at least the reasons set forth below, Applicant submits that each of the pending claims is patentably distinct from the cited prior art and in condition for immediate allowance. Reconsideration of all pending claims is therefore respectfully requested.

### **Claim Objections**

Claim 9 stands objected to because the term “the second command” lacks antecedent basis. Applicant has amended claim 9 to correct this informality. Withdrawal of this objection is therefore respectfully requested.

### **Claim Rejections – 35 USC § 102**

Claim 40 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Mankovitz (WO 98/48566). As set forth below, however, Mankovitz fails to disclose or suggest each of the limitations recited in claim 40.

Mankovitz fails to disclose providing the ability to conduct a transaction at all, let alone the deferral and resumption of a transaction claimed in claim 40.

Mankovitz discloses a television system that allows a viewer to pause a program having enhanced content and then resume the program without losing the continuity of the program itself and the accompanying supplemental enhanced

content. Mankovitz does not, however, disclose or suggest anything about the deferral and resumption of a transaction, or even about a transaction at all for that matter.

The Examiner cites to page 5, lines 15-21 of Mankovitz for disclosing the receipt of a broadcast segment including supplemental content for conducting a transaction. This segment of Mankovitz discloses providing advertisements of program-related merchandise embedded in the VBI of a television signal, but says nothing about providing content that provides a viewer with the ability to conduct a transaction. An advertisement, in and of itself, does not necessarily include an ability to conduct a transaction relating to the product being advertised. Nothing in Mankovitz indicates otherwise.

More importantly, Mankovitz wholly fails to disclose or suggest **deferring and resuming a transaction** associated with a broadcast segment. The Examiner cites to page 6, lines 10-24 as disclosing receiving a command to defer a transaction and deferring the transaction. However, nothing in this passage of Mankovitz mentions a transaction at all, let alone the claimed deferral of a transaction. Rather, this citation discloses a viewer selecting from a number of websites containing information relating to a television program being watched. The Examiner appears to be taking the position that alternating between a variety of websites relating to a television program is equivalent to deferral of a transaction. Applicant respectfully submits that this is an unreasonable interpretation. Even if, *arguendo*, one of the websites were to provide the ability to conduct a transaction, nothing in Mankovitz indicates that a

transaction that had been initiated in one of the peripheral websites could be deferred and resumed.

For example, using the claimed invention, as opposed to the prior art, someone watching a TV program would not have to pause or interrupt or even stop watching a program to ensure that he would be able to complete a desired transaction, since the claimed invention allows him to complete it later, at a more convenient time, with no loss of the information needed to do so.

The Examiner also cites to page 7, lines 12-26 and page 10, lines 3-10, of Mankovitz. These passages fail to make up for the deficiencies noted above. In particular, these passages disclose the ability to “time-shift” the display of a television program by storing the incoming television signal in real-time for future playback. There is no indication in this passage whatsoever of conducting, let alone deferring and resuming, a transaction. Applicant is at a loss to understand how deferring the viewing of a television program or advertisement by time-shifting, even if accompanied by supplemental information relating to the programming, can be considered sufficient to anticipate claim limitations explicitly requiring conducting, deferring, and resuming a *transaction*.

Furthermore, claim 40 recites “capturing a snapshot of at least a portion of the broadcast segment relating to the transaction” and “locally storing the snapshot within a set top box.” The Examiner suggests that the aforementioned passages of Mankovitz further disclose these limitations. Applicant respectfully submits that capturing and replaying a television signal cannot reasonably be interpreted as capturing a “snapshot,” let alone a snapshot “relating to the transaction.” There

simply is no transaction disclosed in Mankovitz at all, even if the “time-shifting” feature of Mankovitz were somehow unreasonably construed as being equivalent to the claimed “snapshot.”

For at least the foregoing reasons, claim 40 is patentably distinct from Mankovitz. Withdrawal of this rejection is therefore respectfully requested. In addition, for at least the reasons set forth above, Mankovitz fails to support the rejections under 35 U.S.C. § 103 discussed below.

#### Claim Rejections – 35 USC § 103

Claims 1, 3, 5, 7-9, 23, 24, 26-34, 36-39, and 41-43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Macrae et al. (U.S. Pub. No. (2003/0005463), in view of Mankovitz, and in further view of Garrett (U.S. Pat. No. 6,473,738). Claim 25 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Macrae in view of Mankovitz, in further view of Garrett, and in further view of Blacketter et al. (U.S. Pat. No. 6,415,438). Claim 35 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Macrae in view of Mankovitz, in view of Garrett, and in further view of Zigmond et al. (U.S. Pat. No. 6,400,407). As set forth below, however, the cited prior art fails to disclose or suggest each of the limitations recited in the pending independent claims, whether considered individually or collectively.

The Macrae and Garrett references fail to adequately supplement the deficiencies of Mankovitz.

Macrae discloses an interactive television system that provides multiple windows for allowing a user to simultaneously view a television program and access supplemental Internet content embedded in the VBI of the television signal. However, like Mankovitz, Macrae wholly fails to disclose or suggest deferring and resuming a transaction.

The Examiner cites to paragraphs 43-48 and 60 for disclosing these limitations. Paragraphs 43-48 disclose providing data in the VBI of a video signal that may include information related to the content of a television program. A graphical icon may be provided to indicate to the user that additional information relating to the television program being viewed is available. There is no indication, however, in paragraphs 43-48 that a user can initiate, defer, and resume a transaction. In fact, this portion of Macrae says nothing about providing the ability to conduct a transaction at all.

The second cited paragraph, paragraph 60, discloses providing an icon representative of a link to send an order to the provider of goods or services. Although this paragraph does indicate that a transaction may be initiated, it too says nothing about deferring and resuming the transaction.

Mankovitz, as discussed above, also fails to disclose or suggest deferring and resuming a transaction. In fact, not only does Mankovitz fail to disclose or suggest the limitations missing from the other cited references, it teaches a system that is contrary to the methodology set forth in independent claims 1 and 23. To further illustrate, claims 1 and 23 recite resuming a transaction and using context information

to “restore the user’s context within the transaction.” The Examiner maintains that Mankovitz discloses these steps “by virtue of continuously presenting the particular portion of the video at the point in which the user decided to interact with the supplemental content.” Office Action, page 5. However, as previously mentioned, Mankovitz says nothing about conducting or deferring a transaction to begin with. Additionally, even if we imagine supplemental content for conducting a transaction being provided in the context of Mankovitz, its time-shifting feature would not in any way link the transaction to the programming. Thus, the stored programming would not “restore the user’s context within the transaction.” A user would be forced to pause the programming at an appropriate time and separately conduct a transaction in another context. There would be no provision for resuming the transaction. Further, even to the extent the separate transaction were to allow for deferring and resumption of the transaction, there would be no coordination whatsoever between the conduction of the transaction and the paused programming to allow for restoring the user’s context within the transaction. The user would be able to restore his or her position within the programming, but this would not be coordinated with any transaction that the user may have initiated in an independent website, even if originally linked from the programming.

Garrett also fails to adequately supplement the other cited art in order to make out a *prima facie* case of obviousness. Garrett discloses a system for providing a buying experience via a computer. The Garrett system allows for a user to recall a “selection list” file containing selections of books or other items that were previously selected but not yet purchased. Basically, Garrett simply discloses the ability to add

items to a selection list, in the context of an Internet purchasing experience, over time without losing previous entries. It is silent with regard to linking up a shopping experience with a television viewing experience. Thus, it wholly fails to teach or suggest retrieving supplemental information in response to a user selection of an item in a shopping cart and/or using supplemental information to resume a transaction and restore a user's context within the transaction. In fact, since Garrett deals solely with an Internet purchasing experience, rather than an interactive television experience, it cannot—by the very definition in Applicant's claims—involve “supplemental information” at all.

#### Conclusion

In light of the preceding remarks, Applicant respectfully submits that each of the pending claims is patentably distinct over the cited references, alone or in combination. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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